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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

22 Cr. 256 (CM)

TAKESHI EBISAWA, et al,

Defendants.

Arraignment

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New York, N.Y.

May 11, 2022

10:30 a.m.

Before:

HON. COLLEEN MCMAHON,

District Judge

APPEARANCES

DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

BY: ALEXANDER N. LI

Assistant United States Attorney

EVAN LIPTON

Attorney for Defendant Ebisawa

RACHEL PERILLO for DAVID STERN

Attorney for Defendant Singhasiri

LISA SCOLARI

Attorney for Defendant Chullanandana

JENNIFER BROWN FOR CLAY KAMINSKY

Attorney for Defendant Rukrasarane

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1 (Case called)

2 THE CLERK: Counsel, state your appearance.

3 MR. LI: Good morning, your Honor.

4 Alexander Li for the government.

5 MR. LIPTON: Good morning, your Honor.

6 Evan Lipton on behalf of Mr. Takeshi Ebisawa who is
7 seated in the first row of the jury box.

8 MS. SCOLARI: Good morning, your Honor.

9 Lisa Scolari for Mr. Chullanandana who is on the far
10 end of the jury box, farther from the Court.

11 MS. PERILLO: Good morning, your Honor.

12 Rachel Perillo for Mr. Singhasiri, and I'm standing in
13 for David Stern who's on trial. Mr. Singhasiri is in the
14 second row to the left.

15 MS. BROWN: Good morning, your Honor.

16 Jennifer Brown, I'm standing in for Mr. Kaminsky who
17 unfortunately has Covid but recovering for Mr. Rukrasarane.

18 THE COURT: Okay. Have a seat.

19 First of all, I apologize, everyone. My wires got
20 cross with Mr. O'Neil. I had a physical therapy appointment
21 this morning and he didn't know about it, but I'm here now.

22 So, Mr. Li, why don't you tell me what is going on
23 here.

24 MR. LI: Thank you, your Honor.

25 We're here for a initial pretrial conference.

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1 THE COURT: I know that. Why don't you tell me what's
2 going on here. Why are we here?

3 THE DEPUTY CLERK: At arraignment, your Honor.

4 MR. LI: Yes, your Honor.

5 I'll start with just an overview of the case if the
6 Court will permit. This case arises out of a three-year
7 investigation by the Drug Enforcement Administration and its
8 international partners, really centered on the activities of
9 Mr. Ebisawa, the lead defendant.

10 The investigation identified Mr. Ebisawa as a leader
11 of the Yakuza transnational crime syndicate based in Japan.
12 Over the course of the investigation, which included meetings
13 and activities in many countries including Burma, Thailand,
14 Denmark and the United States, the DEA identified additional
15 associates with whom Mr. Ebisawa was involved.

16 In particular, about three years ago the DEA
17 undercover agent met with Ebisawa posing a narcotics and arms
18 trafficker, and the undercover did that because Mr. Ebisawa had
19 previously told a confidential source that Mr. Ebisawa was
20 interested in selling narcotics and interested in buying
21 weapons, heavy weapons. And out of those meetings with the
22 undercover agent, there came three transactions which are
23 really the center of the complaint and the indictment.

24 The first transaction is described in Count One and
25 Two of the complaint and the indictment, and that is really the

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1 simplest part of this case. It's a narcotics deal involving
2 Mr. Ebisawa and Mr. Singhasiri.

3 Mr. Ebisawa introduced Mr. Singhasiri to the
4 undercover as a leader of the Yakuza based in Thailand who is
5 capable of supplying large quantities, hundreds of kilos of
6 methamphetamine and heroin.

7 Mr. Ebisawa put the undercover in direct contact with
8 Mr. Singhasiri and they negotiated essentially the purchase of
9 a sample in furtherance of a larger transaction, and that
10 sample was approximately one kilogram of methamphetamine, and
11 approximately 1.4 kilograms of heroin which was in fact
12 delivered in Thailand.

13 As part of those conversations, they also discussed
14 how Mr. Singhasiri's narcotics suppliers who were purported
15 based in Burma needed weapons, heavy weapons to protect their
16 drug business, and that is the basis for Counts One and Two of
17 the indictment which is a narcotics importation conspiracy and
18 a conspiracy to possess machine guns.

19 The second transaction is the basis for Counts Three,
20 Four and Five of the complaint and the indictment. This
21 transaction involved Mr. Ebisawa and the last two defendants in
22 the indictment, Mr. Chullanandana and Mr. Rukrasaranee.

23 Early on Mr. Ebisawa told the undercover agent that he
24 was looking for weapons to purchase for buyers in Burma and for
25 what appears to be the Tamil Tigers.

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1 After the coup in Burma, Mr. Ebisawa's focus shifted
2 to two particular ethnic armed groups in Burma who required
3 weapons to fight the government. Mr. Ebisawa asked the
4 undercover agent to supply him with those weapons, and those
5 weapons were brokered with Mr. Ebisawa and his associates
6 Mr. Chullanandana and Mr. Rukrasaranee, who would essentially
7 be conduits to those Burmese factions.

8 As part of that transaction, Mr. Ebisawa went to
9 Denmark where he inspected the weapons that the undercover
10 purported to have for sale, and one of those photographs is in
11 the complaint. These are heavy caliber weapons. These are
12 machine guns. Three are rocket launchers, and they do include
13 surface-to-air-missiles, stinger missiles, that Mr. Ebisawa and
14 his associates attempted to purchase.

15 They sent weapon lists. They had numerous
16 conferences, calls, video calls, meetings, where they discussed
17 the weapons, including video calls with the leaders directly of
18 those ethnic armed groups in Burma who were attempting to
19 purchase those weapons.

20 As part of the options for payment for those weapons,
21 Mr. Ebisawa, Mr. Chullanandana and Mr. Rukrasaranee offered to
22 pay, in part, using large quantities of narcotics that would be
23 produced by those armed groups, and that is the basis for
24 Counts Three, Four and Five which is a surface-to-air missiles
25 conspiracy count, a narcotics importation count, and a machine

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1 guns conspiracy count.

2 THE COURT: And the reason that Counts One and Two are
3 joined with Counts Three, Four and Five not to anticipate
4 anything that may have occurred to Ms. Scolari or Mr. Kaminsky,
5 but --

6 MR. LI: The reason they're joined, your Honor, is
7 because of Mr. Ebisawa.

8 THE COURT: I know, but that doesn't mean they're
9 joinable. What's the theory of joinder?

10 MR. LI: The theory of joinder is that there is a
11 common nucleus of fact here which is Mr. Ebisawa's introduction
12 of this undercover agent to really these different arms of his
13 business dealings.

14 One was the supply of narcotics directly to the United
15 States via Mr. Singhasiri; another was a weapons for drugs
16 transaction via Mr. Chullanandana and Mr. Rukrasaranee. And I
17 also note, your Honor, that Mr. Singhasiri purported that his
18 drugs were coming from Burma, and really from one of the
19 various ethnic factions that was involved.

20 And, again, the weapons that Mr. Ebisawa was
21 attempting to broker for sale were also to Burmese armed ethnic
22 factions, so we really do believe there is a common nucleus of
23 fact for both.

24 THE COURT: I'm sure we'll litigate that.

25 MR. LI: Your Honor, the third transaction in this

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1 case is a money laundering count, and that is Count Six of the
2 indictment, and this is Mr. Ebisawa alone.

3 As part of essentially a demonstration of his
4 capabilities, the undercover asked Mr. Ebisawa to transfer a
5 \$100,000 from New York to Japan for the purported purpose of
6 paying a narcotics trafficker -- a narcotics transporter based
7 in Japan.

8 Mr. Ebisawa did exactly that, and he kept a 15 percent
9 commission for himself upon delivery of the proceeds in Japan,
10 and that is the basis for Count Six which is the money
11 laundering count.

12 THE COURT: OK. All right. Well, thank you. I
13 appreciate the summary. I understand that we have to arraign
14 the defendants.

15 MR. LIPTON: Yes, Judge.

16 THE COURT: Mr. O'Neil.

17 THE CLERK: Mr. Ebisawa, Mr. Singhasiri,
18 Mr. Chullanandana and Mr. Rukrasaranee, the United States
19 Attorney for the Southern District of New York has filed an
20 indictment, 22 Cr. 256. It charges each of you with various
21 crimes.

22 Mr. Ebisawa, stand up, sir.

23 The indictment charges you in Count One with narcotics
24 importation conspiracy.

25 Count Three conspiracy to acquire anti-aircraft

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missiles, and Count Four, narcotics importation conspiracy;
Count Five, conspiracy to possess machine gun, and Count Six
money laundering.

THE COURT: You didn't mention Count Two. I think
he's a defendant on all six counts.

MR. LI: Your Honor, respectfully, Mr. Ebisawa is not
charged in Count Two.

THE COURT: He's not charged in Count Two.

Thank you.

THE CLERK: Counsel, have you shared this indictment
with your client, discussed it with him?

MR. LIPTON: Yes, I've reviewed the indictment with my
client. I believe he understands the charges against him. I
waive the public reading and ask that the Court enter a plea of
not guilty on his behalf.

THE CLERK: A plea of not guilty is entered, Judge?

THE COURT: It is entered.

THE CLERK: Sir, you may sit down.

Mr. Singhasiri, stand, sir.

The indictment, 22 Cr. 256, charges you in two counts.
Count One, narcotics importation conspiracy, and Count Two,
conspiracy to possess machine guns.

Counsel, has your client received a copy of the
indictment? You've discussed it with him?

MS. PERILLO: Your Honor, I've reviewed the indictment

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1 with him. We are in the process of having a copy of the
2 indictment translated for him, but we have reviewed it and he
3 understands the charges against him.

4 THE CLERK: You waive formal reading of the charges?

5 MS. PERILLO: Yes, we do.

6 THE CLERK: And at this time will enter a plea for
7 your client?

8 MS. PERILLO: Not guilty.

9 THE COURT: Thank you.

10 THE CLERK: Sir, you may sit down.

11 Mr. Chullanandana, the indictment charges you in Count
12 Three -- actually, Mr. Rukrasaranee, you can stand as well.

13 You are both charged with the same counts in this
14 indictment. Count Three, conspiracy to acquire anti-aircraft
15 missiles, Count Four, narcotics importation conspiracy, and
16 Count Five, conspiracy to possess machine guns.

17 Counsel for Mr. Chullanandana, have you given your
18 client a copy? You discussed it with him?

19 MS. SCOLARI: Yes, I have showed a copy of the
20 indictment to Mr. Chullanandana. We have discussed it. He
21 understands the charges. He waives a public reading and wishes
22 to enter a plea of not guilty.

23 THE COURT: Thank you, Ms. Scolari.

24 THE CLERK: Mr. Chullanandana, you can sit down.

25 And counsel for Mr. Rukrasaranee.

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1 MS. BROWN: Yes. Mr. Kaminsky reviewed the indictment
2 with his client yesterday. I provided him with a copy this
3 morning. We would waive a public reading and enter a plea of
4 not guilty.

5 THE CLERK: Thank you, sir. You may sit down.

6 THE COURT: OK. So having heard that this is a
7 complicated case, a long investigation, why doesn't the
8 government tell me what the status of discovery is?

9 And do me a favor, stay seated. You may remove your
10 mask when you're speaking.

11 MR. LI: Thank you, your Honor.

12 We are presently collecting the discovery and will be
13 producing the discovery on a rolling basis. I'm happy to go
14 over some of the categories of the discovery with the Court.

15 THE COURT: I hope you will, categories and quantity,
16 anticipated quantity.

17 MR. LI: Yes, your Honor.

18 The quantity, as the Court anticipated, is going to be
19 voluminous. The core of this case is going to be very large
20 quantity of recorded communications with the defendants,
21 including recorded meetings, recorded telephone calls, recorded
22 video conferences and recorded electronic communications.
23 There are hundreds of such recordings, quite likely over a
24 thousand.

25 We have collected, we believe, all of them at this

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1 point, and we are continuing to get them transcribed, and as
2 necessary translated as a courtesy which we are going to be
3 producing to the defendants.

4 THE COURT: Unless you speak Thai, Burmese, Japanese
5 and various other assorted languages, it's not as a courtesy to
6 them, it's as a courtesy to you.

7 MR. LI: Yes, your Honor. That's absolutely right.
8 The bulk of the communications actually weren't in English
9 because --

10 THE COURT: I'm sure they were not.

11 MR. LI: I'm sorry. Actually, the bulk of the
12 communications actually were English because Mr. Ebisawa and
13 Mr. Chullanandana, in particular, do speak English, so the bulk
14 actually were in English, but there were a substantial number
15 that were in foreign languages or had portions in foreign
16 languages which we are having translated.

17 So I do anticipate, your Honor, that that will be
18 really the core of the case, but of course there's other
19 discovery.

20 THE COURT: Let's say we got a thousand such
21 communications, and when will you begin producing them?

22 MR. LI: Your Honor, we have received the bulk of
23 them. I expect we will begin producing them within
24 approximately two weeks, and it is my hope that we will produce
25 substantially all of the materials currently in our position

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1 within a month.

2 Some of those additional materials, your Honor, will
3 include law enforcement reports and records of meetings that
4 were held in Thailand and Denmark and Japan and in the United
5 States, will include photographs, videos, including physical
6 narcotics, lab tests results of those narcotics, include
7 records of financial transactions of tolls of online accounts.
8 And it will include some extractions of devices, and let me put
9 a finer point on that, your Honor.

10 In connection with the arrests, which all occurred in
11 Manhattan, each of the defendants provided consent to search
12 the devices that were on his person as well as the hotel rooms
13 that they had booked, and so there are a number of devices that
14 have been seized and we are in the process of extracting.

15 In addition, there were several electronic devices
16 that were in the hotel rooms of Mr. Ebisawa and Mr. Singhasiri
17 that we obtained warrants to search out of an abundance of
18 caution, and so those devices are presently also -- we're
19 attempting to get into them for extraction, but we have not yet
20 been able to get inside those devices.

21 THE COURT: How long do you think the process of
22 extracting from these devices is going to take?

23 MR. LI: For the devices that we are able to get into,
24 your Honor, I expect we'll be able to get into them within -- I
25 should say, I expect we will be able to extract them within

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1 approximately a week.

2 For the devices that we have not yet been able to get
3 into, that process is ongoing. There really is no ability to
4 be certain when we'll be able to crack a device. It could take
5 weeks. It could take months, and that I'm not confident as to
6 when we'll be able to get into those devices.

7 There was also one other search warrant, your Honor,
8 which was for an iCloud and for WhatsApp accounts operated by
9 Mr. Ebisawa. We do have those returns and will be producing
10 those.

11 That I think, your Honor, summarizes the materials
12 that are in our position and that we will be producing in this
13 case. And, again, I anticipate we'll be able to produce
14 substantially all of it within approximately a month.

15 I do want to flag that because of the international
16 character of this case, there is going to be a substantial
17 volume of discovery that we obtain pursuant to Mutual Legal
18 Assistance Treaties, including to Japan, to Thailand and to
19 Denmark.

20 It is my experience that it often takes several months
21 for those foreign governments to provide those materials. We
22 will, of course, provide them as soon as we receive them, but I
23 cannot predict exactly when we will receive the results of
24 those MLATs from those foreign countries.

25 THE COURT: OK. All right.

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1 What else does the government have to share with me
2 and defense counsel on the record?

3 MR. LI: Your Honor, we have conferred with the
4 defense as to what might make sense for next steps. It is my
5 understanding that the defense will require some time to review
6 the discovery, which makes sense given the nature of the case.

7 And in consultation with the defense, we would propose
8 coming back in September. The dates proposed by the defense
9 are September 27th or 28th if that is convenient for the Court.

10 THE COURT: I will be here. OK.

11 Let me look at the back table. Who, if anybody, wants
12 to speak.

13 MR. LIPTON: Thank you, Judge. Evan Lipton for
14 Mr. Ebisawa.

15 THE COURT: Hello, Mr. Lipton.

16 MR. LIPTON: So we have conferred with the government.
17 We agree that September 27th is a good date to come back to
18 court to check in on the discovery process. I have no
19 anticipation that we will be complete with the review by that
20 date.

21 THE COURT: I don't think you'll have full production
22 by that date.

23 MR. LIPTON: Nonetheless, we think it's a good
24 check-in date. I've also spoken to defense counsel and we
25 believe it's a good idea to request that a discovery

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1 coordinator be appointed in this case. Everybody is CJA
2 counsel in this case, and we've heard about the voluminous
3 amount of discovery. I will get the appropriate paperwork to
4 the Court to make that request.

5 THE COURT: That's fine. Consider it granted.

6 I'm not around for the next three weeks, so Mr. O'Neil
7 is here. You can get the paperwork to him and he can start
8 reviewing it.

9 MR. LIPTON: I'll make that happen as quickly as
10 possible.

11 THE COURT: Do you have any idea who you'd like to
12 have do this?

13 MR. LIPTON: Yes, Ms. Almeida.

14 THE COURT: OK. Good.

15 MR. LIPTON: I believe that's all from this table,
16 unless there's anything from the Court.

17 THE COURT: OK. Terrific. All right.

18 Well, in that case, Mr. O'Neil, let's put this on for
19 the 27th of September.

20 THE CLERK: Yes, two o'clock.

21 THE COURT: Two o'clock, September 27.

22 Time excluded in the interest of justice. The
23 defendant's interest in a speedy trial being outweighed by the
24 need for counsel to review discovery, the production of which
25 is being delayed somewhat, both by the need to translate some

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1 of the discovery into English and the fact that some of that
2 discovery is only obtainable via MLAT procedures which takes
3 some period of time.

4 With that, gentleman, I'm Judge McMahon. I'm the
5 judge who is assigned to your case, and I'll be supervising
6 these proceedings and conducting the trial.

7 We are giving your lawyers the period over the summer
8 to look at the discovery that the government will produce. It
9 will also be produced to you, and I will see you on September
10 the 27th and we will have our next conference.

11 Anything else that we need to do today?

12 MR. LI: Nothing from the government, your Honor.

13 THE COURT: OK, and I do apologize for keeping you
14 waiting.

15 (Adjourned)